

# ClientAlert

December 30, 2011

## SEC Adopts Revised “Accredited Investor” Definition

On December 21, 2011, the SEC adopted final rules that amend the \$1 million net worth standard used for determining the accredited investor status of natural persons to conform to the requirements of Section 413(a) of the Dodd-Frank Act. The amendments change the methodology for calculating the \$1 million net worth threshold to:

- exclude as an asset the person’s primary residence;
- exclude as a liability the indebtedness secured by a person’s primary residence, up to the estimated fair market value of the property at the time of the sale of securities, unless the person incurred the debt within 60 days prior to the purchase of securities in the exempt offering for the purpose of buying the securities and not for buying the primary residence; and
- include as a liability any indebtedness secured by the person’s primary residence that exceeds the estimated fair market value of the property.

The new definition essentially reduces a person’s net worth measure by the net amount that the primary residence contributed and simplifies the net worth calculation by including any indebtedness exceeding the estimated value of the primary residence, regardless of whether the lender can seek recourse from other assets under various anti-deficiency statutes.

The amended rules provide for a limited “grandfathering” or transition provision that allows the prior accredited investor net worth calculation standard to apply for certain follow-on investments in connection with pre-existing rights to purchase securities, provided that:

- such right was held by the person on July 20, 2010, the day before the enactment of the Dodd-Frank Act;
- the person qualified as an accredited investor on the basis of net worth at the time the person acquired such right; and
- the person held securities of the same issuer, other than the right, on July 20, 2010.

Although the changes to the net worth standard have been in effect since the effective date of the Dodd-Frank Act, the revised definition adopted by the SEC implement these changes under the Securities Act and will take effect on February 27, 2012.

A complete copy of the SEC’s Release can be found [here](#).

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